

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to Accelerated Career Education (ACE) Program

The Economic Development Authority (IEDA) hereby amends Chapter 20, “Accelerated Career Education (ACE) Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 260G.

Purpose and Summary

The ACE Program administered pursuant to Iowa Code chapter 260G assists Iowa’s community colleges in establishing or expanding programs that train individuals in the occupations most needed by Iowa businesses. This rule making clarifies the roles of the Authority and the community colleges and eliminates references to program components that have been repealed. IEDA staff partnered with community college representatives involved in administering the program to update the rules.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 13, 2021, as **ARC 5387C**.

Several comments were provided on behalf of community college presidents. The first comment noted that IEDA currently exercises approval authority of community college programs and agreements as part of its administration of the program, but the approval responsibilities are not explicitly outlined in Iowa Code chapter 260G as in the proposed rules. In response, IEDA clarified the statutory basis for its role in the program in Iowa Code section 260G.4C, which states, in part, “The economic development authority shall administer the statewide allocations of program job credits to accelerated career education programs.” A second comment asserted that the proposed rules changed how program information is reported to the Iowa Department of Revenue (IDR) in a way that was inconsistent with Iowa Code sections 260G.3 and 260G.4A. The adopted amendments correct these inconsistencies. The final comment noted the term “vertical infrastructure” is used in Iowa Code section 260G.6, while a definition of the term is eliminated from the rules. In response, IEDA clarified that, with the exception of the definition, all rules in 261—Chapter 20 using the term “vertical infrastructure” were rescinded in 2013 because the relevant program component is now administered by the Department of Education.

Two changes from the Notice have been made. In Item 6, paragraph 20.5(3)“b” has been updated to clarify that IEDA certifies that the amount of program job credits is in accordance with each program agreement on behalf of the community colleges. This change makes the paragraph consistent with Iowa Code section 260G.4A(3), which states the certification is made by the colleges. In Item 7, paragraph 20.6(8)“a” has been updated to clarify that IEDA notifies the IDR on behalf of the community colleges when a program agreement is entered. This change makes the paragraph consistent with Iowa Code section 260G.3(2), which states the colleges shall notify IDR when a program agreement is entered. In Item 7, paragraph 20.6(2)“h,” the word “that” has been changed to “who” to be consistent with the language in Iowa Code section 260G.3(7).

Adoption of Rule Making

This rule making was adopted by the IEDA on February 19, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Rescind **261—Chapter 20**, Division I to Division V headings.

ITEM 2. Amend rule 261—20.1(260G) as follows:

261—20.1(260G) Purpose. ~~The ACE program has three parts: the capital costs component, the program job credits component, and the accelerated career education grants program. The economic development authority administers the program job credits component. The college student aid commission administers the career education grants portion of the ACE program as described in the commission's administrative rules. The of education administers the capital costs component. The goal of the ACE accelerated career education (ACE) program is designed to provide businesses with an enhanced skilled workforce in Iowa. The program assists Iowa's community colleges in establishing or expanding programs that train individuals in the occupations most needed by Iowa businesses.~~

ITEM 3. Amend rule 261—20.2(260G) as follows:

261—20.2(260G) Definitions.

"260G data system" means the data system established by the authority to record data, upload documentation, and track programs and agreements.

"Accelerated career education program" or "ACE program" means the program established pursuant to Iowa Code chapter 260G and administered by the authority.

"Agreement" means a program agreement referred to in Iowa Code section 260G.3 between an employer and a community college.

"Allotment" means the distribution of program job credits based upon need as determined by among the community colleges in accordance with Iowa Code section 260C.18C.

"Authority" means the economic development authority created in Iowa Code section 15.105.

"Board" means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

"Community college" means a community college established under Iowa Code chapter 260C or a consortium of two or more community colleges.

“Community college board” means the governing board of a merged area as defined in Iowa Code section 260C.11.

“Employee” means a person employed in a program job.

“Employer” means a business or consortium of businesses engaged in interstate or intrastate commerce for the purposes of manufacturing, processing or assembling products; construction; conducting research and development; or providing services in interstate or intrastate commerce, but excluding retail services.

“Highly skilled job” means a job with a broadly based, high-performance skill profile including advanced computation and communication skills, technology skills and workplace behavior skills, and for which an applied technical education is required.

“Participant” means an individual who is enrolled in an accelerated career education program at a community college.

“Participant position” means the individual student enrollment position available in an accelerated career education program.

“Program” means a program of instruction designed by a community college which has been designated by a community college board and approved by the authority as meeting the requirements of Iowa Code section 260G.4.

“Program agreement” means an agreement between an employer and a community college as described in Iowa Code section 260G.3.

“Program capital cost” means classroom and laboratory renovation, new classroom and laboratory construction, site acquisition or preparation.

“Program job” means a highly skilled job available from an employer pursuant to a program agreement.

“Program job credit” means a credit that an employer may claim against all withholding taxes due in an amount up to 10 percent of the gross program job wage of a program job position as authorized in an agreement between a community college and an employer.

“Program job position” means a job position which is planned or available for an employee by the employer pursuant to a program agreement.

“Program operating costs” means all necessary and incidental costs of providing program services.

“Program services” means services that include all of the following provided they are pursuant to a program agreement: program needs assessment and development, job task analysis, curriculum development and revision, instruction, instructional materials and supplies, computer software and upgrades, instructional support, administrative and student services, related school to career training programs, skill or career interest assessment services and testing and contracted services.

“Vertical infrastructure” means land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development and recreation trails. Vertical infrastructure does not include equipment; routine, recurring maintenance or operational expenses; or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

ITEM 4. Amend rule 261—20.3(260G) as follows:

261—20.3(260G) ACE program Program eligibility and designation.

20.3(1) In order to receive tax an allotment of program job credits, ~~from withholding under the program job credits component or financial assistance through the college student aid commission’s accelerated career education grants program,~~ a program must be designated by a community college as must designate an eligible ACE program. All programs must demonstrate increased capacity to enroll additional students. To be eligible, a program must be either:

a. A credit career or technical education program resulting in the conferring of a certificate, diploma, associate of science degree, or associate of applied science degree; or

b. A credit-equivalent career or technical education program consisting of not less than 540 contact hours of classroom and laboratory instruction and resulting in the conferring of a certificate or other recognized, competency-based credential.

~~20.3(2) By resolution of a~~ A community college board of directors, shall designate and approve an eligible program ~~may be approved and designated as an ACE program by resolution.~~ The respective community college board(s) board of directors shall ensure compliance with Iowa Code chapter 260G. ~~In designating ACE programs, the respective community college board(s) shall give priority to targeted industries as designated by the authority.~~

~~20.3(3) A copy of the designated ACE program agreement shall be submitted to the authority. The agreement shall state which program component (job credits or education grants, or both if applicable) is included in the agreement. The authority will review and approve all program designations and maintain a record of all approved ACE programs.~~

~~20.3(4) The authority will review the ACE job credits component of the program for issues of quality in accordance with rule 261—20.16(260G).~~

ITEM 5. Amend rule 261—20.4(260G) as follows:

261—20.4(260G) Funding allocation.

20.4(1) Base allocation. The authority shall allocate the total amount of program job credits authorized and available to each community college for each fiscal year based on the formula established in Iowa Code section 260C.18C. For purposes of such allocation, the applicable ratios shall be applied to commitments made by community colleges at the beginning of each fiscal year.

~~a.—Funds for ACE program job credits shall be allocated among the community colleges in the state for the fiscal years and in the amounts specified in Iowa Code chapter 260G and these rules.~~

~~b.—Community colleges shall submit program agreements to access allotted funds for program job credits. The program agreement shall document the findings of the community college that all ACE eligibility requirements have been met.~~

20.4(2) Alternate allotment. Allotment of uncommitted funds. ~~If a community college fails to commit any of its allotment by April 1 of the fiscal year, the funds for that community college will be allocated to other community colleges based upon need as described in these rules.~~ Each community college shall commit its allotment of program job credits as of April 1 of each fiscal year. Program job credits are considered to be committed if there is a signed an executed program agreement in place or if there is a statement of intent in place that states that a signed program agreement will be in place executed by May 1 of the current fiscal year. Uncommitted funds shall be reallocated on a first-come, first-served basis to other community colleges with executed program agreements that have not received all of the program job credits required. Funds that remain uncommitted as of June 30 will be reallocated based on the formula established in Iowa Code section 260C.18C for use during the following fiscal year.

20.4(3) Authority role. The authority shall calculate and report to each community college its allotment. The authority may deny the allocation of program job credits to any program which fails to comply with Iowa Code chapter 260G. The authority shall maintain records of the proposed program job credits under each agreement for each fiscal year.

20.4(4) Submission of program agreements. A community college shall submit program agreements via the 260G data system to access its allotment of program job credits.

20.4(5) Total amount of program job credits in any one fiscal year. The total amount of program job credits from all employers which shall be allocated for all programs in any one fiscal year shall not exceed the amount specified in Iowa Code section 260G.4B(1).

ITEM 6. Rescind rule 261—20.5(260G) and adopt the following new rule in lieu thereof:

261—20.5(260G) Program job credits.

20.5(1) Eligibility. To be eligible to receive program job credits, an employer shall demonstrate it has met the following requirements:

~~a. The program agreement must provide for pledged program positions paying at least 200 percent of the federal poverty level for a family of two as calculated at the time of approval of the agreement or any renewal. If the wage designated is to become effective after a training or probationary period, the employer must document that there is a plan in place regarding time frames for transition to the~~

permanent full-time wage, and the employer must provide documentation that these time frames are reasonable and that the employer has previously adhered to the time frames.

b. The program agreement must establish a 20 percent employer cash or in-kind match for program costs.

20.5(2) *Determination of job credit amounts.*

a. Program job credits shall be based upon the program job positions identified in the program agreement. No costs incurred prior to the effective date of a program agreement may be reimbursed or eligible for program job credits.

b. Eligibility for program job credits shall be based on certification of program job positions and program job wages by the employer at the time established in the agreement.

c. An amount up to 10 percent of the gross program job wages as certified by the employer in the agreement shall be credited from the total payment made by an employer pursuant to Iowa Code section 422.16.

d. The employer shall remit the amount of the credit quarterly, in the same manner as withholding payments are reported to the department of revenue, to the community college to be allocated to and, when collected, paid into a special fund of the community college to pay, in part, the program costs.

e. When the program costs have been paid, the employer credits shall cease. Any moneys received after the program costs have been paid shall be remitted to the treasurer of state to be deposited in the general fund of the state.

20.5(3) *Certification to department of revenue.*

a. The employer shall certify to the department of revenue that the program job credits are in accordance with the program agreement and shall provide other information the department may require.

b. The authority shall certify to the department of revenue on behalf of the community colleges that the amount of the program job credits is in accordance with each program agreement and shall provide other information the department may require.

ITEM 7. Amend rule 261—20.6(260G) as follows:

261—20.6(260G) Program agreements and administration.

20.6(1) Program agreements will be developed by an employer, and a community college ~~and any employee of an employer representing a program job~~. The development of the program agreements may be facilitated by an entity representing a group of employers. ~~Any community college that has an employer from its merged area involved in an ACE project must enter into the agreement.~~ If a bargaining unit is in place with the employer pledging the jobs, a representative of the bargaining unit shall take part in the development of the program agreement. All participating parties must sign the program agreement. The program agreement must include employer certification of contributions that are made toward the program costs.

20.6(2) A program agreement shall include, at a minimum, the following terms: ~~match~~

a. Match provided by the employer; ~~tuition~~

b. Tuition, student fees, or special charges fixed by the community college board of directors; ~~guarantee~~

c. Guarantee of employer payments; ~~type~~

d. Type and amount of funding sources that will be used to pay for program costs; ~~description~~

e. Description of program services and implementation schedule; ~~the~~

f. The term of the agreement, not to exceed five years; ~~the~~

g. The employer's agreement to interview graduates for full-time positions and provide hiring preference; ~~for~~

h. For employers with more than four sponsored participants, certification that a job offer will be made to at least 25 percent of those participants ~~that~~ who complete the program; ~~an~~

i. An agreement by the employer to provide a wage level of no less than 200 percent of the federal poverty guideline for a family of two; ~~a~~

j. A provision that the employer does not have to fulfill the job offer requirement if the employer experiences an economic downturn; ~~a~~

k. A provision that the participants will agree to interview with the employer following completion of the program; and default

l. Default procedures.

20.6(3) Projects that cross community college boundaries, or projects that involve employers from multiple community college areas, must be conducted pursuant to an agreement or agreements with each college. Program agreements shall be submitted to the authority via the 260G data system. Program agreements shall document the findings of the community college that all program and employer eligibility requirements have been met. The authority will review agreements for issues of quality. The authority will maintain a record of all approved agreements.

20.6(4) Term, amendments, and renewals.

a. Term. The term of a program agreement shall not exceed five years from the effective date of the agreement. Once a program agreement is approved, the authority will obligate job credits, contingent upon the availability of funding, for each year of the term of the agreement.

b. Amendments. A program agreement shall be amended only with the consent of both parties and approval by the authority. A program agreement can be amended to extend the term of the agreement a maximum of two years.

c. Renewals. A program agreement may be renewed upon completion of its approved term. The community college must demonstrate the program meets the eligibility requirements in Iowa Code section 260G.4, including increased program capacity, as of the date of approval of renewal by the authority. A renewed agreement, including exhibits, shall be entered and uploaded into the 260G data system. In order to renew an agreement, the following budgeted items and employer commitments shall be updated:

- (1) Sponsored positions;
- (2) Program costs;
- (3) Changes in tuition;
- (4) Other fees;
- (5) Changes in salaries and expenses;
- (6) Federal poverty thresholds;
- (7) Income;
- (8) Employer match amounts;
- (9) Any other items identified by the authority.

20.6(5) The 260G data system will automatically assign a 12-digit agreement number once the agreement data is entered and approved. The agreement number will remain the same if an approved agreement is extended or otherwise amended. Program agreements that are renewed pursuant to paragraph 20.6(4) "c" will be assigned a new 12-digit number.

20.6(6) The authority shall provide information about the ACE program in accordance with its annual reporting requirements in Iowa Code section 15.107B.

20.6(7) Each community college shall establish a monitoring system which includes, at a minimum, a review of employers' compliance with Iowa Code, these rules, and the program agreement. Monitoring shall be conducted at least annually by community colleges with active program agreements. Each community college shall document its monitoring efforts and promptly notify the authority of any changes.

20.6(8) Coordination with other state agencies.

a. Department of revenue. When a program agreement is approved for funding, the community college shall notify the authority through the 260G data system, and the authority shall notify the department of revenue on behalf of the community college within 30 days of the date of its approval. Information to be provided to the department of revenue includes, but is not limited to, program agreement number, employer name, employer address, start and expiration dates, federal employer identification number, wages, sponsored positions, and approved amount of program job credits. If, at any time after a program agreement is approved, changes are made that would affect the above reporting requirements, the department of revenue and the authority shall be notified within 30 days.

b. *Iowa workforce development.* Community colleges and the authority shall provide program data to Iowa workforce development as required.

c. *Department of education.* Community colleges and the authority shall provide program data to the department of education as required.

20.6(9) Program costs for new and renewal program agreements shall be calculated or recalculated based on the required program services for a specific number of participants. Program agreement updates reflecting this recalculation must be submitted to the authority to review compliance.

ITEM 8. Rescind and reserve rules **261—20.7(260G)** to **261—20.9(260G)**.

ITEM 9. Rescind and reserve rules **261—20.13(260G)** to **261—20.19(81GA,HF868,HF809)**.

[Filed 2/23/21, effective 4/28/21]

[Published 3/24/21]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/24/21.